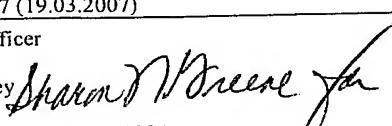


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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

| | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|--|---|-----------------------|-------------------------------------|-----------|---------------------|--------------------------|------------|----------|--------------------------|-------------|--|--------------------------|------------|----------------------------|-------------------------------------|-----------|---|--------------------------|------------|-------------------------|--------------------------|-------------|--|--------------------------|--------------|---|
| Applicant's or agent's file reference 35693.8318 | FOR FURTHER ACTION | | See Form PCT/IPEA/416 | | | | | | | | | | | | | | | | | | | | | | | | |
| International application No. PCT/US05/20867 | International filing date (day/month/year) 14 June 2005 (14.06.2005) | Priority date (day/month/year) 23 August 2004 (23.08.2004) | | | | | | | | | | | | | | | | | | | | | | | | | |
| International Patent Classification (IPC) or national classification and IPC IPC: A41D 1/08(2006.01) USPC: 2/267,228,466 | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Applicant DASHAMERICA INC | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 4 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of ___ sheets, as follows:</p> <p style="margin-left: 20px;"><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p style="margin-left: 20px;"><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) ___ containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p> <p>4. This report contains indications relating to the following items:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%; text-align: center; padding: 5px;"><input checked="" type="checkbox"/></td> <td style="width: 15%; text-align: center; padding: 5px;">Box No. I</td> <td style="width: 70%; text-align: left; padding: 5px;">Basis of the report</td> </tr> <tr> <td style="text-align: center; padding: 5px;"><input type="checkbox"/></td> <td style="text-align: center; padding: 5px;">Box No. II</td> <td style="text-align: left; padding: 5px;">Priority</td> </tr> <tr> <td style="text-align: center; padding: 5px;"><input type="checkbox"/></td> <td style="text-align: center; padding: 5px;">Box No. III</td> <td style="text-align: left; padding: 5px;">Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td style="text-align: center; padding: 5px;"><input type="checkbox"/></td> <td style="text-align: center; padding: 5px;">Box No. IV</td> <td style="text-align: left; padding: 5px;">Lack of unity of invention</td> </tr> <tr> <td style="text-align: center; padding: 5px;"><input checked="" type="checkbox"/></td> <td style="text-align: center; padding: 5px;">Box No. V</td> <td style="text-align: left; padding: 5px;">Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td style="text-align: center; padding: 5px;"><input type="checkbox"/></td> <td style="text-align: center; padding: 5px;">Box No. VI</td> <td style="text-align: left; padding: 5px;">Certain documents cited</td> </tr> <tr> <td style="text-align: center; padding: 5px;"><input type="checkbox"/></td> <td style="text-align: center; padding: 5px;">Box No. VII</td> <td style="text-align: left; padding: 5px;">Certain defects in the international application</td> </tr> <tr> <td style="text-align: center; padding: 5px;"><input type="checkbox"/></td> <td style="text-align: center; padding: 5px;">Box No. VIII</td> <td style="text-align: left; padding: 5px;">Certain observations on the international application</td> </tr> </table> | | | | <input checked="" type="checkbox"/> | Box No. I | Basis of the report | <input type="checkbox"/> | Box No. II | Priority | <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability | <input type="checkbox"/> | Box No. IV | Lack of unity of invention | <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement | <input type="checkbox"/> | Box No. VI | Certain documents cited | <input type="checkbox"/> | Box No. VII | Certain defects in the international application | <input type="checkbox"/> | Box No. VIII | Certain observations on the international application |
| <input checked="" type="checkbox"/> | Box No. I | Basis of the report | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> | Box No. II | Priority | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> | Box No. IV | Lack of unity of invention | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> | Box No. VI | Certain documents cited | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> | Box No. VII | Certain defects in the international application | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> | Box No. VIII | Certain observations on the international application | | | | | | | | | | | | | | | | | | | | | | | | | |
| Date of submission of the demand 31 August 2005 (31.08.2005) | Date of completion of this report 19 March 2007 (19.03.2007) | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Name and mailing address of the IPEA/ US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (571) 273-3201 | Authorized officer Alissa L. Hoey  Telephone No. (571) 272-4985 | | | | | | | | | | | | | | | | | | | | | | | | | | |

Box No. I Basis of the report

1. With regard to the language, this report is based on:

the international application in the language in which it was filed.

a translation of the international application into English, which is the language of a translation furnished for the purposes of:

- international search (under Rules 12.3 and 23.1(b))
- publication of the international application (under Rule 12.4(a))
- international preliminary examination (under Rules 55.2(a) and/or 55.3(a))

2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

the international application as originally filed/furnished

the description:
pages 1-7 as originally filed/furnished
pages* NONE received by this Authority on _____
pages* NONE received by this Authority on _____

the claims:
pages 8-15 as originally filed/furnished
pages* NONE as amended (together with any statement) under Article 19
pages* NONE received by this Authority on _____
pages* NONE received by this Authority on _____

the drawings:
pages 1/3-3/3 as originally filed/furnished
pages* NONE received by this Authority on _____
pages* NONE received by this Authority on _____

a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. The amendments have resulted in the cancellation of:

- the description, pages _____
- the claims, Nos. _____
- the drawings, sheets/figs _____
- the sequence listing (*specify*): _____
- any table(s) related to the sequence listing (*specify*): _____

4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- the description, pages _____
- the claims, Nos. _____
- the drawings, sheets/figs _____
- the sequence listing (*specify*): _____
- any table(s) related to the sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

| | | |
|-------------------------------|---|-----|
| Novelty (N) | Claims <u>Please See Continuation Sheet</u> | YES |
| | Claims <u>Please See Continuation Sheet</u> | NO |
| Inventive Step (IS) | Claims <u>Please See Continuation Sheet</u> | YES |
| | Claims <u>Please See Continuation Sheet</u> | NO |
| Industrial Applicability (IA) | Claims <u>Please See Continuation Sheet</u> | YES |
| | Claims <u>Please See Continuation Sheet</u> | NO |

2. Citations and Explanations (Rule 70.7)

Claims 1-54 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.

----- NEW CITATIONS -----

Claims 1, 4-9, 12-15, 17-24, 26-35, 37, 39-47 and 49-54 lack novelty under PCT Article 33(2) as being anticipated by Forsyth et al. (US 6,565,702). Forsyth et al. teaches a chamois comprising a first cloth layer being relatively elastic and having a garment facing side. A second cloth layer the second cloth layer being relatively elastic and having a body facing side. A first foam layer coupled to the first cloth layer opposite the garment facing side and located between the first cloth layer and the second cloth layer. The first foam layer being relatively elastic such that the chamois stretches. At least one foam pad being coupled to the first foam layer and being relatively inelastic and arranged between the first foam layer and the second cloth layer such that a portion of the chamois is relatively elastic and a portion of the chamois is relatively inelastic (see figures 15-20). Further, Forsyth teaches the second cloth layer comprises at least one relatively inelastic portion. The at least one relatively inelastic portion being substantially aligned with the at least one foam pad, such that the second cloth layer may stretch in multiple direction by the at least one inelastic portion of the second cloth layer inhibits stretching in the portion. The first cloth layer comprises at least one relatively inelastic portion and is substantially aligned with the at least one foam pad, such that the first cloth layer may stretch in multiple direction but the at least one inelastic portion of the first cloth layer inhibits stretching in that portion (figures 15-20: column 9, lines 8-61). The at least one foam pad comprises a plurality of foam pads of multiple density foam. At least one foam pad comprises a first density and the first foam layer comprises a second density less than the first density. The first cloth layer, the second cloth layer, the fist foam layer and the at least one foam pad are flexible (figures 6-8). Additionally, Forsyth et al. teaches the first foam layer having at least one through hole and the at least one foam pad being sized to fit in the at least one through hole and coupled to the first foam layer in the at least one through hole. The relatively inelastic material comprises a synthetic leather (figures 15-20).

Claims 2, 3, 16 and 25 lack an inventive step under PCT Article 33(3) as being obvious over Forsyth et al. in view of Sessoms (US 5,388,271). Forsyth et al. teaches a padded cycling chamois as desired above in claims 1, 13 and 20. However, Forsyth et al. fails to teach an anti-microbial material in the second cloth. Sessoms teaches a padded athletic garment having an outer garment layer made from an anti-microbial material (column 3, lines 43-68). It would have been obvious to have provided the padded cycling chamois of Forsyth et al. with the anti-microbial outer garment material of Sessoms, since the padded cycling chamois of Forsyth et al. provided with an anti-microbial outer garment material would provide a garment with padded for athletic purposes that prevents bacteria growth.

Claims 10, 11, 36, 38 and 48 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest a second foam layer being coupled to the second cloth layer opposite the body facing side and located between the at least one foam pad and the second cloth layer.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/US05/20867

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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:

V.1. Reasoned Statements:

The opinion as to Novelty was positive (Yes) with respect to claims 2, 3, 10, 11, 16, 25, 36, 38 and 48
The opinion as to Novelty was negative (No) with respect to claims 1, 4-9, 12-15, 17-24, 26-35, 37, 39-47 and 49-54
The opinion as to Inventive Step was positive (Yes) with respect to claims 10, 11, 36, 38 and 48
The opinion as to Inventive Step was negative (NO) with respect to claims 1-9, 12-35, 37, 39-47 and 49-54
The opinion as to Industrial Applicability was positive (YES) with respect to claims 1-54
The opinion as to Industrial Applicability was negative (NO) with respect to claims NONE